

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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In the Matter of:

Second Periodic Review of the  
Commission's Rules and Policies  
Affecting the Conversion to Digital  
Television

MB Docket No. 03-15

RM 9832

Public Interest Obligations of TV  
Broadcast Licenses

MM Docket No. 99-360

Children's Television Obligations of  
Digital Television Broadcasters

MM Docket No. 00-167

Standardized and Enhanced Disclosure  
Requirements for Television Broadcast  
Licensee Public Interest Obligations

MM Docket No. 00-168

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

**REPLY COMMENTS OF DIRECTV, INC.**

DIRECTV, Inc. ("DIRECTV")<sup>1</sup> hereby submits the following reply comments in response to the Commission's Notice of Proposed Rulemaking in the above-captioned proceeding.<sup>2</sup>

DIRECTV is the United States' largest provider of direct broadcast satellite ("DBS") service, with more than 11.4 million subscribers nationwide, and a leading provider of digital subscription television programming. DIRECTV has been pioneering innovation in digital television since the inception of its DBS service. In 1994, DIRECTV was introduced to the

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<sup>1</sup> DIRECTV is a wholly-owned subsidiary of DIRECTV Enterprises, LLC, a licensee in the DBS service and wholly-owned subsidiary of Hughes Electronics Corporation.

<sup>2</sup> See Second Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television; Public Interest Obligations of TV Broadcast Licensees; Children's Television Obligations of Digital Television Broadcasters; and Standardized and Enhanced Disclosure Requirements for Television Broadcast Licensees Public Interest Obligations, *Notice of Proposed Rulemaking*, MB Docket No. 03-15; MM Docket No. 99-360; MM Docket No. 00-167 and MM Docket No. 00-168 (rel. January 27, 2003) ("Notice").

public as the first MVPD to retransmit programming in an all-digital format. Since that time, DIRECTV has continued to lead the MVPD industry in distributing digital and high-definition ("HD") content to its subscribers. For example, in 1998, DIRECTV launched the first nationally-distributed HD programming channels.<sup>3</sup> DIRECTV also was the first MVPD to implement a Digital Visual Interface ("DVI"), and DIRECTV today offers several models of HD set-top boxes to its subscribers.

DIRECTV supports the important goal of expediting the successful deployment of digital television in the United States to benefit all consumers. In evaluating the comments submitted in this proceeding regarding the digital television transition, DIRECTV wishes to make two points.

*First*, a number of broadcast interests have responded opportunistically to the *Notice's* inquiry into whether the Commission should "retain, revise or remove the simulcast requirement,"<sup>4</sup> which provides that broadcasters must offer a percentage of their analog programming on a digital channel beginning April 1, 2003, with progressively greater amounts required to be simulcast over the next two years.<sup>5</sup> These broadcasters urge that the simulcast rule should be eliminated as unnecessary.<sup>6</sup>

DIRECTV disagrees. The simulcast requirement is an important attendant feature of the digital transition, intended to promote "an expeditious, non-disruptive transition from analog to

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<sup>3</sup> DIRECTV currently offers HBO HD, HD Net, Showtime HD and a 24 Hour HD PPV Movie Channel on a regular basis, as well as ad hoc HD content such as NCAA basketball games in the 2003 March Madness NCAA College Basketball Tournament.

<sup>4</sup> *Notice* at ¶ 66.

<sup>5</sup> See 47 C.F.R. § 73.624(f)(1) (requiring DTV licensees to simulcast 50% of the video programming on the analog channel on the DTV channel by April 1, 2003; 75% by April 1, 2004; and 100% by April 1, 2005).

<sup>6</sup> See, e.g., Comments of the Association of Public Television Stations, the Corporation for Public Broadcasting and the Public Broadcasting Service at 31; Comments of the Association for Maximum Service Television, Inc. and the National Association of Broadcasters at 15; Comments of the Walt Disney Company and the ABC Television Network at 3;

digital television for analog viewers.”<sup>7</sup> As the Commission has previously observed, the requirement “will help ensure that consumers will enjoy continuity of free over-the-air program service when we reclaim the analog spectrum at the conclusion of the transition period.”<sup>8</sup> DIRECTV agrees that the obligation should remain because it continues to “serve the purpose of facilitating a smooth transition to digital for analog viewers.”<sup>9</sup> During the transition, if analog and digital signals carry different content, or even the same content at different times, consumers may well continue to rely on the analog signal for their content of choice, such that a precipitous discontinuance of the analog broadcast would cause customer confusion or even outright disenfranchisement.

*Second*, DIRECTV urges the Commission to reject the efforts of certain terrestrial broadcast parties to inject digital “must carry” issues into this proceeding, and to portray the imposition of various types of “must carry” – *e.g.*, mandatory dual carriage of analog and digital broadcast signals, mandatory carriage of multicast digital broadcast signals, or mandatory carriage of HD broadcast signals – as necessary to promote the success of the digital television transition. Although the *Notice* is quite comprehensive in its coverage and touches on a wide range of topics, the issue of digital “must carry” obligations is barely mentioned – and for good reason. As A&E observes, there is “a substantial disconnect between the imperative to speed the digital transition and the statutory goals underlying federal must carry mandates.”<sup>10</sup> DIRECTV agrees strongly that “must carry will, at best, play a tangential role in the digital transition,”<sup>11</sup> and

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<sup>7</sup> Comments of the National Cable Television Association at 22.

<sup>8</sup> *Fifth Report and Order*, 12 FCC Rcd 12809, 12833 (1997).

<sup>9</sup> Comments of the National Cable Television Association at 24.

<sup>10</sup> Comments of A&E Television Networks at 2.

<sup>11</sup> *Id.* at ii.

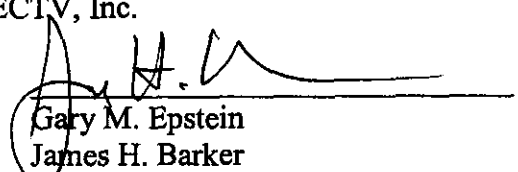
that "many threshold issues must first be resolved. . . including channel election, simulcasting, and consumer awareness issues, to name but a few."<sup>12</sup>

There is no explicit statutory mandate for extending a digital must carry obligation to satellite carriers, and the Commission has acknowledged the "absence of rules relating to the satellite carriage of digital television signals."<sup>13</sup> Nonetheless, DIRECTV shares the legal and constitutional concerns raised with respect to the dual carriage and multicast carriage obligations that the broadcasters attempt to introduce or re-open here.<sup>14</sup> DIRECTV urges the Commission to leave such issues for another time and other proceedings; they do not bear significantly on the digital transition.

Respectfully submitted,

DIRECTV, Inc.

By:



Gary M. Epstein  
James H. Barker  
LATHAM & WATKINS  
555 Eleventh Street, N.W.  
Suite 1000  
Washington, D.C. 20004-2505  
(202) 637-2200

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<sup>12</sup> Comments of Courtroom Television Network at 3.

<sup>13</sup> *In the Matter of Guenter Marksteiner v. EchoStar Communications Corporation, Memorandum Opinion and Order*, CSR-5978-M (rel. Jan. 14, 2003), at ¶ 8.

<sup>14</sup> ~~*See generally* Comments of A&E Television Networks; Comments of Courtroom Television Network.~~